

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

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WRIT PETITION NO : 8192 of 1996

Between:

M. Shantakumari, W/o Sudhakar,
JMJ College for Women, Tenali,
Guntur Dist.

..... PETITIONER

AND

- 1 The Commissioner of Higher Education,
Government of A.P., Hyderabad.
- 2 JMJ College for Women, Rep. by Correspondent.
Tenali.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus, declaring the action of the 1st respondent in not granting the monetary benefits from the date of her joining the service i.e. from 1-2-90 and also denying her the UGC Scale of pay from the date of her appointment, as illegal, arbitrary and violation of Articles direct, the 1st respondent to release the monetary benefits to the petitioner from 1.2.90 in the UGC Scale of pay on par with Ms. P. Hemalatha, Lecturer in Home Science.

Counsel for the Petitioner:MR.N.C.DAS

Counsel for the Respondent No.1: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.2: -None appeared-

The Court made the following ORDER:

This writ petition is filed by the petitioner seeking a Mandamus declaring the action of the first respondent in not granting the monetary benefits from the date of her joining service i.e. 01-02-1990 and also denying her the U.G.C Scale of pay from the date of her appointment as arbitrary, illegal and consequently, direct the respondents to release the monetary benefits to her from 01-02-1990 in the UGC Scale of pay on par with one

Ms. P.Hemalatha, Lecturer in Home Science.

It is the case of the petitioner that she was appointed as a Lecturer in Chemistry in the second respondent college with effect from 18-08-1987 and she continued as such up to 24-06-1988 and she was put in UGC scales. However, when it was found that she was 'surplus', her services were terminated with effect from

25-06-1988. Thereafter, in 1990, a vacancy in the Department of Chemistry arose as one of the lecturers applied for three years leave. Then, she was appointed in the said leave vacancy on

01-02-1990. According to her, her appointment was approved on 24-07-1991. However, an order dated 20-09-1991 was passed stating that she was entitled to the scale as applicable to a Junior Lecturer and of course, she was also entitled to increments with effect from 24-07-1991.

The grievance of the petitioner is that though she was appointed as a Lecturer against a leave vacancy of one Smt. Viji Susan Mathew, who was admitted to UGC scale of pay, she is denied the monetary benefits in the UGC scale of pay, to which she is entitled to legally. According to her, the denial of salary to her on par

with Ms. P.Hemalatha and fixing her salary as a Junior Lecturer with effect from 24-07-1991 is arbitrary and illegal.

No counter-affidavit has been filed.

The learned Government Pleader for Higher Education on the basis of the instructions contended that at the time of appointment of the petitioner on 01-02-1990, there was a workload for nine lecturers. Thereafter, it was found that there was workload only for eight lecturers and as the college is a composite college and in the process of implementing the decision taken on 30-08-1989 to bifurcate the Degree College from the Junior College, the petitioner being the Junior most member in the Department though appointed against the vacancy caused by Mrs. Viji Susan Mathew, her case was considered as a Junior Lecturer on 04-08-1993 and proceedings No.86/PCI-4/90 were issued in this regard by the Commissioner of Collegiate Education, Andhra Pradesh, Hyderabad. The petitioner did not question the said proceedings. Vide proceedings dated 24-07-1991, the Director of Collegiate Education, Andhra Pradesh, Hyderabad has also approved the appointment of the petitioner and directed the second respondent to furnish her salary statement for approval.

There is no dispute that through proceedings dated 24-07-1991 issued by the Director of Collegiate Education, Andhra Pradesh, Hyderabad, the appointment of the petitioner against the long leave vacancy of Smt. Viji Susan Mathew was approved. However, when college was bifurcated and she was put in the scale of Junior Lecturer, she made a representation to the Commissioner of Collegiate Education, Andhra Pradesh, Hyderabad but her case was rejected and accordingly proceedings were issued on 04-08-1993. The petitioner did not question such proceedings issued by the authorities. Further, on the letter issued by the second respondent management, the Commissioner of Collegiate Education, Andhra Pradesh, Hyderabad, issued proceedings dated 28-12-1994, which reads as under:

“The attention of the Principal, In-charge, J.M.J. College for Women, Tenali, Guntur District, is invited to the reference read above and she is informed that Smt. M.Santhakumari was appointed as 9th surplus lecturer when workload actually warranted 8 lecturers. Moreover, Smt. Hemalatha belongs to Home Science Department. After bifurcation Smt. M.Santhakumari must be allotted to Director of Intermediate

Education Department and therefore, she was given Junior Lecturer scale. When there was no sufficient workload, she is not entitled to be given salary and therefore, her request for sanction of monetary benefit with effect from 01-02-1990 is not feasible of compliance.”

From the above, it is very clear that the petitioner was appointed against the vacancy caused by one Smt. Viji Susan Mathew at the time when there was a workload for nine lecturers. When the degree and junior colleges were bifurcated and when the workload has come down, the petitioner should have been terminated but nonetheless, since there was workload in the Junior College, she was accommodated there and she is working as such, from 1991 onwards. Then, the authorities instead of dispensing with the services of the petitioner on finding that there was no workload, felt that her services could be utilized in the post of Junior Lecturer on the implementation of the bifurcation of the Junior and Degree Colleges. Such an order was passed in 1991. Thereafter, on her representation dated 24-05-1993 for fixation of pay in U.G.C. Pay Scale from the date of her appointment, the Commissioner of Collegiate Education, Andhra Pradesh, Hyderabad issued proceedings in 1993, wherein, her request was rejected. That apart, based on the recommendations of the second respondent college, the authorities have passed orders in 1994 declining the petitioner's request for granting the monetary benefits from the date of her appointment in the UGC scale of pay. None of those orders are challenged by the petitioner before any Court.

For all the above reasons, the writ petition is devoid of merit and it is liable to be dismissed.

The writ petition is accordingly dismissed. There shall be no order as to costs.

(C.V.RAMULU, J)

2nd MARCH, 2005

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To

- 1 The Commissioner of Higher Education,
Government of A.P., Hyderabad.
- 2 Two CCs to the Government Pleader for Higher Education, A.P.High Court
Buildings, Hyderabad (OUT).
- 3 Two CD copies.